

209546-81684 (701449US DIV)

PATENT

REMARKS

Claims 53-67 are pending in this application. By this Amendment, Claims 53, 59 and 67 are amended, and Claims 36-52 are canceled as being drawn to a non-elected invention. Favorable reconsideration is respectfully requested in light of the following Remarks.

Applicant gratefully acknowledges that the Office action indicates that Claims 59-64 are allowable. For the reasons set forth below, it is respectfully submitted that the remaining claims define allowable subject matter.

1. The Office action rejects Claims 53, 54, 55, 57, 65, 66 and 67 under 35 U.S.C. §102(b) over Wirt (U.S. Patent No. 5,728,342, hereinafter "Wirt"). The rejection is respectfully traversed.

By this Amendment, independent Claims 53 and 67 are amended to include the feature of the seam defining structure being made of a material having a lower tensile strength than the inner layer.

Wirt discloses a method of making an invisible instrument panel or dashboard airbag cover door. A dashboard panel 14 or trim panel 36 includes a one piece molded substrate 38, an outer trim or skin layer 48, and an intermediate foam layer 46 therebetween. *See Fig. 6.* A cover door 20 is located along an edge 22 of the dashboard 14 and is defined by two parallel tear propagation seams or lines 28, 30 in the form of a groove. *See Figs. 1 and 2; col. 5, lines 17-19.*

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference. *See MPEP §2131.* As amended, independent Claims 53 and 67 further define the feature of a seam defining structure being made of a material having a lower tensile strength than the inner layer. It is respectfully submitted that at least this feature is not disclosed, taught or suggested in the applied art.

For at least this reason, Claims 53 and 67 are allowable over the applied art. Claims 54, 55, 57, 65 and 66, which ultimately depend from Claim 53, are likewise allowable over the applied art. Withdrawal of the rejection is respectfully requested.

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2. The Office action rejects Claim 56 under 35 U.S.C. §103(a) over Wirt in view of Iannazzi (U.S. Patent No. 5,429,784, hereinafter "Iannazzi"). The rejection is respectfully traversed.

Claim 56 ultimately depends from independent Claim 53. As mentioned above, there is no mention in Wirt of at least the feature of a seam defining structure being made of a material having a lower tensile strength than the inner layer. Iannazzi adds nothing to overcome this shortcoming. Thus, the combination of Wirt and Iannazzi fails to teach all the claim limitations of Claim 56, and the Office action fails to establish a *prima facie* case of obviousness. *See MPEP §2143.*

For at least this reason, Claim 56 is allowable over the applied art. Withdrawal of the rejection is respectfully requested.

3. The Office action rejects Claim 58 under 35 U.S.C. §103(a) over Wirt in view of Rafferty (U.S. Patent No. 5,222,760, hereinafter "Rafferty"). The rejection is respectfully traversed.

Claim 58 ultimately depends from independent Claim 53. As mentioned above, there is no mention in Wirt of at least the feature of a seam defining structure being made of a material having a lower tensile strength than the inner layer. Rafferty adds nothing to overcome this shortcoming. Thus, the combination of Wirt and Rafferty fails to teach all the claim limitations of Claim 58, and the Office action fails to establish a *prima facie* case of obviousness. *See MPEP §2143.*

For at least this reason, Claim 58 is allowable over the applied art. Withdrawal of the rejection is respectfully requested.

4. The Office action rejects Claims 59-64 under 35 U.S.C. §101 as claiming the same invention as that of Claims 1-7 of U.S. Patent No. 6,753,057. The rejection is respectfully traversed.

Claims 59-64 ultimately depend from independent Claim 53. As such, there is no mention in Claims 1-7 of the '057 patent of at least the feature of a seam defining structure being made of a material having a lower tensile strength than the inner layer, as recited in Claim 53 of the instant application.

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Because identical subject matter is not being claimed between the '057 patent and the instant application, the statutory double patenting rejection is misplaced.<sup>1</sup> Withdrawal of the rejection is respectfully requested.

In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable consideration and prompt allowance of the application is earnestly solicited.

Should Examiner Ahmad believe anything further would be desirable in order to place the application in better condition for allowance; the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

It is believed that any additional fees due with respect to this paper have already been identified. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge account number 50-3145 in the name of Honigman Miller Schwartz and Cohn LLP.

Respectfully submitted,



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<sup>1</sup> *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1984); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Ockert*, 245 F.2d 47, 114 USPQ 330 (CCPA 1957).